



## The Town of Fenwick Island

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### REGULAR MEETING OF THE TOWN COUNCIL

Friday, December 3, 2021

MEETING HELD VIA HYBRID METHOD

#### MINUTES

#### In Attendance

##### Town Council Members:

Mayor Carmean, Vice Mayor Napolitano, Treasurer Rymer, Secretary Magdeburger, Council Member Breger, Council Member Bortner, Council Member Benn

##### Staff in Attendance:

Town Manager Schuchman, Police Chief Devlin, Finance Manager Gary, Public Works Manager Locke, Town Clerk Menominee

##### Others in Attendance:

Along with the Town Council and Staff, there were an additional 8 participants in-person and 19 that called in to the meeting.

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#### **1. President's Report - Mayor Carmean**

Mayor Carmean reported the Writ of Mandamus has been dismissed and thanked multiple people. She also thanked Public Works for the Christmas decorations around Town and for putting up the Tree in the gazebo. Mayor Carmean also reported that the Town maintained a Covid outbreak following the last Town Council meeting in October. She thanked Steve Majewski, Shawn Benton and Sgt. Brian Parsons for keeping the Town safe while multiple officers were quarantining. Mayor Carmean wanted to note that she is changing the Mayor's Message on the website seasonally and including references to local businesses. She also said that earlier in the day the Planning Commission, Board of Adjustment and Town Council all had training sessions with Town Solicitor Mette.

#### **2. Approval of Minutes from October 22, 2021 Regular Town Council Meeting**

Vice Mayor Napolitano wanted to note that the time under the Beach Committee report should say that the Fenwick Freeze starts at 10:30am and not 10:00am.

MOTION to approve the minutes from the October 22, 2021 Regular Town Council meeting with the proposed amendment.

*Moved by:* Natalie Magdeburger

*Seconded by:* Jacque Napolitano

**MOTION passed unanimously.**

2.1. [10.22.21 meeting minutes.pdf](#) 

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**3. For Discussion and Possible Action:**

3.1. New Committee Additions

Mayor Carmean stated that Dave Reifschneider would be added to the Commercial Planning & Building Review Committee and Amy Kyle would be added to the Environmental Committee.

MOTION to approve the Committee additions.

*Moved by:* Natalie Magdeburger

*Seconded by:* Bill Rymer

**MOTION passed unanimously.**

3.2. Strategic Insurance Partners (SIP): 12/1/2021-12/1/2022

Mayor Carmean reported that the Town of Fenwick Island's Insurance Policy renewal date was December 1, 2021. She said that the price of the policy was \$80,000 per year covering auto accidents, loss of life, protecting town officials from lawsuits..... Mayor Carmean said that Council looked for ways to reduce the price. She also reported that they do believe the buildings are under insured and are looking for someone to reevaluate. Mayor Carmean said that Council did sign the contract but are looking at cost comparisons via other companies. Secretary Magdeburger said it was a good product but was concerned about the value of the buildings.

### 3.3. Survey Results

Mayor Carmean reported that 237 surveys came back out of 694. She said that she would have more results to show in the January meeting but did say with the amount of Bayside residents that responded bayside flooding was a high priority concern. Treasurer Rymer asked if Council would develop action plans for areas that needed to be addressed. Mayor Carmean clarified that once an area of concern is found then it will be referred to a committee.

### 3.4. Proposed Air Filter Systems for Town Hall & Police Department

Mayor Carmean reported that a quote for \$3,750 was received by the Town's HVAC company to install air filter systems in the Town Hall and Police Department. She said the Town office side already had one.

MOTION to approve the air filter systems to be installed in the Town Hall and Police Department.

*Moved by:* Richard Benn

*Seconded by:* Bill Rymer

**MOTION passed unanimously.**

### 3.5. Code Revision Issues

Secretary Magdeburger reported that General Code has been publishing the Town of Fenwick Island's code since 1995 but the Code has never had a recodification. She said that it should be done every 20 years, which would have been due in 2015. Secretary Magdeburger said that the previous Council wanted to do code rewrites and there was a connection made with KCI Technologies in June 2020 to rewrite portions of the code. She also reported that the project was never bid, but Debbie Pfeil of KCI Technologies was retained to rewrite these provisions: Ch. 142- Subdivision; Ch. 135- Signs; Ch. 61- Building & Utility Construction; and Ch. 160- Zoning. Secretary Magdeburger reported that relevant information was collected and sent to Ms. Pfeil and to date \$26,000 has been billed for writing and research. After trying to reach out to Ms. Pfeil on multiple attempts, Secretary Magdeburger reported

she had to reach out to a supervisor at KCI Technologies to finally get in touch with Ms. Pfeil who sent work product back limited to communications that she had received from the Town in an outline form. Secretary Magdeburger said that General Code provided a proposal to recodify in March 2020 for \$10,000 and she asked for a new proposal to do the same work which will take 1 to 1.5 years. Treasurer Rymer clarified that the recodification is to just make sure that it reads clean, not putting anything new or rewriting the Code. Mayor Carmean asked what would happen with the old contract with KCI. Secretary Magdeburger said that a discussion would be held with the Town Solicitor and it was clear that there would not be an ongoing relationship.

MOTION to repurpose unused funds for the recodification of the Town of Fenwick Island's code with General Code.

*Moved by:* Richard Benn

*Seconded by:* Jacque Napolitano

**MOTION passed unanimously.**

### 3.6. Dumpster Regulations & Enforcement Review

- Current Enforcement Plans

Town Manager Schuchman said that concern was expressed about dumpsters in the commercial area. Town Manager Schuchman reported a letter was sent out on 11/17 and only two property owners have replied. She said in each case the dumpsters need to be replaced. Town Manager Schuchman said that if she does not hear from any other property owners by 12/17 that more action will be taken.

- Residential Advocacy Committee Recommendations

Council Member Bortner proposed a recommendation for Council to consider sending to Charter and Ordinance a requirement of four-sided enclosures for all storage, disposal and pick-up facilities to minimize impacts of commercial businesses on adjacent neighbors.

- Commercial Planning Committee Recommendations

Council Member Benn stated that the Commercial Planning Committee met on 11/18 and looked at the Code. He said that

the Town has a robust code on commercial dumpsters including, location on hard surface, odorless, clean, leak-proof and covered. Council Member Benn said that the code needs to be enforced which is a start with the Town Manager Schuchman's letter. Council Member Benn did feel going forward that all future development will be required to present in the plans screening of dumpsters but would be very difficult to retroactively zone.

MOTION to refer to C&O for site plans to not only require commercial dumpster screening on future development, but to investigate the feasibility of screening existing businesses.

*Moved by:* Richard Benn

*Seconded by:* Natalie Magdeburger

**MOTION passed unanimously.**

MOTION to send to Business Development Committee the dumpster enclosure issue to come to a mutual agreement with possible incentives with the business community.

*Moved by:* Richard Benn

*Seconded by:* Bill Rymer

**MOTION passed unanimously.**

### 3.7. Infrastructure Recommendations

Council Member Benn reported that the Committee decided to move forward with the French drain design concept for the puddle outside of the Our Harvest restaurant. He said that Public Works has remedied the larger puddle that used to exist with some grading. AECOM's proposal in 2017 to construct two catch basins resulted in neighborhood rejections. Council Member Benn said that he agreed with the neighbors that adding more catch basins that were already overwhelmed by stormwater would not work. He said that after talking with Town Manager Schuchman they looked at a dry well concept, which includes digging a gravel pit and running water into it which filters through the gravel and ground, eliminating any contaminants. Mike Locke said that

he could keep it as narrow as possible with a backhoe. Council Member Benn said that it would be very low-cost solution and if it doesn't work it could just be patched over.

Council Member Benn reported the Resiliency Plan is going to be the roadmap for mitigating bayside flooding. He said that two proposals had been sent in from GMB and AECOM. He also said that the Town currently has \$120,000 in ARPA funds to use. Council Member Benn said that the committee heard from both firms individually behind closed doors; one difference between the two firms was that AECOM was going to write grant proposals. He believes this will be beneficial because there will be many other grants coming down from federal funding. Council Member Benn said through unanimous approval at the Infrastructure Committee they recommended AECOM's proposal contingent that it would be an approved use of ARPA funds. Vice Mayor Napolitano wanted to clarify that there is a caveat to use ARPA funds very specifically. Council Member Benn said that was correct and the funds could be used for water, stormwater, sewer, and broadband.

MOTION to proceed with 18x2 French drain concept project.

*Moved by:* Richard Benn

*Seconded by:* Natalie Magdeburger

**MOTION passed unanimously.**

MOTION to accept AECOM's proposal at \$49,971 contingent on the approved use of ARPA funds.

*Moved by:* Richard Benn

*Seconded by:* Natalie Magdeburger

**MOTION passed unanimously.**

### 3.8. Beach Committee Recommendations

- Fenwick Freeze Progress Report

Vice Mayor Napolitano reported the Fenwick Freeze will be taking place on January 1, 2022 and there will be a bonfire, coffee and hot chocolate. FIPD and Bethany Beach EMS will be at the event for any emergencies. She also said that pre-

registration is open online and at the Town Hall now through 12/29. Vice Mayor Napolitano said t-shirts will be available for pick-up starting at 9am on the day of the event.

- Summer Beach End Trash Pickup

Vice Mayor Napolitano reported that the Beach Committee would like to move forward with a trial run of building dune end trash enclosures for 3 streets: Atlantic Street, Dagsboro Street and James Street. She said Atlantic Street would have 6 cans, Dagsboro Street would have 4 cans and James Street would have 4 cans as well. Vice Mayor Napolitano said that this would be a trial run for Summer 2022.

Vice Mayor Napolitano also reported that the Beach Committee would like to get involved with the Environmental Committee in regards to issues such as wind turbines and beach replenishment. Mayor Carmean reported that the Town is still in limbo in regards to beach replenishment.

MOTION to approve \$1400 for Public Works to build dune end trash enclosures.

*Moved by:* Jacque Napolitano

*Seconded by:* Richard Benn

**MOTION passed unanimously.**

### 3.9. Environmental Committee Recommendations

Council Member Breger commented that he was glad to have the added manpower from the Beach Committee to coordinate efforts concerning wind turbine plans.

### 3.10. Dredging Project

Treasurer Rymer reported there has been a significant change in the Dredging project. He said that the original place they wanted to place dredge materials is not viable. He reported that he met with Seatowne, which is a beach community that owns 19 acres of wetlands along the bay because they have asked DNREC if they could receive dredge materials to restore their wetlands. Treasurer Rymer said that they are now looking to move forward with Seatowne, but more stakeholders are now involved and it changes the type of

project along with higher costs and a longer time period. He also said that they will still keep their options open and research other areas. Treasurer Rymer also said that the sediment sampling tests are ongoing but results should be available by the beginning of January. One anomaly was discovered in the South channel during the archaeological testing.

### 3.11. Sidewalk Project

Mayor Carmean reported that the contract from Century Engineering had been sent to Town Solicitor Mette for some suggestions. She then forwarded the added suggestions to Century Engineering and is awaiting reply from them. Mayor Carmean also reported there may be some grant money available in January.

### 3.12. Charter & Ordinance

- Topics covered at November 30th C&O Meeting
  - Secretary Magdeburger said that the committee split up topics amongst committee members to research and will review the topics at the next meeting.
- Hearing on Proposed Amendments to Chapter 160-5B-1: December 6, 2021
  - Secretary Magdeburger clarified that mechanicals can go anywhere even on the roof but the height would be configured into the mechanicals as well. She encouraged anyone with questions or comments to come to the hearing on Monday, December 6th at 9am.

### 3.13. Adding Town Manager Schuchman as a bank signatory

Treasurer Rymer stated that in order for Town Manager Schuchman to be an authorized bank signatory, a motion for such is needed to be formally approved through Council. Council Member Benn questioned if checks still needed two signatures which would leave two employees with an authorized signature. Treasurer Rymer clarified that Finance Manager Gary is not an authorized bank signatory which

would leave only one Town Staff and three Council members as authorized signatures.

MOTION to approve Town Manager Schuchman as a bank signatory.

*Moved by:* Vicki Carmean

*Seconded by:* Natalie Magdeburger

**MOTION passed unanimously.**

3.14. Future Council Meetings

Mayor Carmean stated that she along with, Vice Mayor Napolitano, Treasurer Rymer, Council Member Benn and Secretary Magdeburger would potentially be out of town during the week of the regularly scheduled February Town Council meeting. She said they would be able to meet via Zoom, but would not be comfortable without being able to hold a physical meeting in Town Hall. She said 10 meetings are required per year and they could always hold 2 meetings in one month.

**4. Treasurer's Report - Treasurer Rymer**

Treasurer Rymer reported that October was a very strong month. \$4.26 million; \$138,000 was received in RTT in the first 3 months. He also reported October had a strong building permit month. Treasurer Rymer reported the full year budget is \$250,000 for RTT, but expressed a little concern in reaching amount.

MOTION to approve the Treasurer's Report.

*Moved by:* Natalie Magdeburger

*Seconded by:* Richard Benn

**MOTION passed unanimously.**

4.1. [Treasurers Report.pdf](#) 

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**5. Town Manager's Report - Town Manager Schuchman**

Town Manager Schuchman reported the building permits fees for the month of October were \$81,110 and four business licenses were issued for the month of October. She wanted to thank all departments, in particular

Public Works for efforts during a difficult month dealing with COVID and flooding.

- 5.1. [Town Manager Report.pdf](#)  # - #

## 6. Department Reports

- 6.1. Building Report- Town Manager Schuchman # - #

[Building Report.pdf](#) 

- 6.2. Public Works Report- Public Works Manager Locke # - #

[Public Works Report.pdf](#) 

- 6.3. FIPD- Chief Devlin # - #

Chief Devlin reported he applied for a \$30,000 County grant. He also said that he has been working on finding funding for wraps for the Police cars. Chief Devlin wants residents to call FIPD if they have a need that arises. He thanked Sergeant Parsons and Corporal Majewski for stepping up through the COVID exposure. He did say the department had a back-up plan formed with the State Police if anyone else fell ill. He thanked the Fenwick Island Community for coming together for the Keith Heacock fundraiser. He also reported the complaint numbers have gone up, thus keeping the officers very busy in the community.

[FIPD Report.pdf](#) 

## 7. Committee Reports

## 8. Old Business

NONE.

## 9. New Business

Treasurer Rymer suggested referring the draft Ad-Hoc Commercial District Plan to the Commercial Planning and Building Review Committee. He said he wanted to clarify what committee was looking into the document to review. Council Member Breger said that the Business Development Committee was looking into the document as well. Council Member Benn

said he and Council Member Breger would meet and divvy the document up between the two committees.

## **10. Upcoming Events and Meetings:**

- 10.1. December 4- Holiday Tree Lighting @ 6pm
- 10.2. December 6- Zoning Public Hearing @ 9am
- 10.3. December 6- Residential Advocacy Meeting @ 1pm
- 10.4. December 7- Infrastructure Meeting @ 10am
- 10.5. December 15- Board of Adjustment Hearing @ 9:30am
- 10.6. December 17- Budget & Finance Meeting @ 9am
- 10.7. December 23 & 24- Town Hall Closed- Christmas
- 10.8. December 30 & 31- Town Hall Closed- NYE Holiday

## **11. Public Participation**

Ray Fager- Mr. Fager suggested moving Public Participation to the beginning of the meeting. He also suggested using a Bluetooth enabled mic for hearing aids.

Scott Mumford- Mr. Mumford expressed concerns about the commercial dumpster issue and urged the Council to enforce what is already in the Code now.

## **12. Executive Session**

*For preliminary discussion on site acquisitions for any publicly funded capital improvements; strategy sessions, including those involving legal advice or opinion for an attorney-at-law, with respect to collective bargaining or pending or potential litigation; discussion of the content of documents, excluded from the definition of "public record"; and personnel matters in which the names, competency and abilities of individual employees are discussed. Pursuant to 29 Del.C. § 10004(B)(2), (4), (6), & (9).*

## **13. Adjournment**

MOTION to adjourn.

*Moved by:* Jacque Napolitano

*Seconded by:* Bill Rymer

**MOTION passed unanimously.**

Draft